

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHRISTOPHER S. CHAPMAN, Plaintiff, v. UNIVERSAL MOTOWN RECORDS GROUP, et al., Defendants.	CASE NO. 08 CV-3255 (LAP) ECF CASE
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**DECLARATION OF CHRISTINE LEPERA IN OPPOSITION TO
THE MOTION OF PLAINTIFF'S COUNSEL
DUNCAN G. BYERS FOR LEAVE TO WITHDRAW**

CHRISTINE LEPERA declares under the penalties of perjury as follows:

1. I am a partner, through my professional corporation, of Mitchell Silberberg & Knupp LLP, counsel for Defendant Universal Motown Records Group, a division of UMG Recordings, Inc. ("Defendant" or "Universal") in the above-captioned action.
2. I make this Declaration upon personal knowledge in Opposition to the Motion of Duncan G. Byers, Esq. for leave to withdraw as counsel for Plaintiff Christopher S. Chapman ("Chapman" or "Plaintiff"), and to provide this Court with documents referred to in Defendant's accompanying Memorandum of Law.
3. Attached hereto as Ex. 1 is a true and correct copy of the docket for this action in the Eastern District of Virginia.
4. On July 14, 2008, this Court entered a Scheduling Order which, *inter alia*, bifurcated liability and damages discovery, set a deadline of January 30, 2009 for the completion

of fact liability discovery and a deadline of April 30, 2009 for the completion of any expert liability discovery. A true and correct copy of this Scheduling Order is attached hereto as Ex. 2.

5. Subsequent to the Court's entry of the Scheduling Order, Plaintiff and Defendant agreed in writing upon a schedule for the exchange of expert opinions, under which schedule Plaintiff was required to serve any expert reports on liability issues by January 30, 2009. This schedule is memorialized in a September 9, 2008 email from Defendant's counsel to Plaintiff's counsel and a November 4, 2008 letter from Plaintiff's counsel to Defendant's counsel. True and correct copies of this email and letter are attached hereto as Exs. 3 and 4, respectively.

6. On January 21, 2009, Mr. Byers informed Defendant's counsel during a telephone call that he intended to file a motion seeking: (a) leave to withdraw as counsel for Chapman and (b) a 45-day stay of the action.

7. On January 22, 2009, Defendant sent Mr. Byers a letter informing him that Defendant did not consent to his withdrawal or to a stay of the action. A true and correct copy of this letter is attached hereto as Ex. 5.

8. On January 28, 2009, I deposed Chapman on behalf of Defendant in Washington, DC. Mr. Byers defended that deposition as Chapman's counsel.

9. On January 29, 2009, Mr. Byers informed Defendant's counsel that Plaintiff would not be serving an expert report regarding liability issues. A true and correct copy of a January 30, 2009 letter from Defendant's counsel Jeffrey M. Movit to Mr. Byers, confirming that Plaintiff would not be serving an expert report on liability issues, is attached hereto as Ex. 6.

10. Subsequent to Chapman's deposition, Defendant's counsel and Mr. Byers discussed whether he intended to pursue his motion to withdraw, and whether he and his client

would be willing to enter into a stipulation providing for a dismissal with prejudice of this action and a release of all claims against Universal and other parties, in exchange for a release of claims for fees and sanctions for the prosecution of this action. On February 6, 2009, Mr. Byers sent Defendant a letter which indicated that his client was unwilling to entertain such a resolution and which advised that he would be pursuing his motion to withdraw. A true and correct copy of that letter is attached hereto as Ex. 7.

11. A true and correct copy of Mr. Byers' November 24, 2008 letter to the Court is attached hereto as Ex. 8.

12. A true and correct copy of a decision entitled *McCord v. State of New York*, N.Y.L.J., Oct. 1, 2008 at 26 (col. 1) (N.Y. Ct. Cl. Sept. 12, 2008), is attached hereto as Ex. 9.

13. I declare under the penalties of perjury that the foregoing is true and correct.

Executed on February 11, 2009
New York, New York

Christine Lepera
CHRISTINE LEPERA